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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/978,426 | 10/15/2001 | George E. Anderson | 14023/120/101 | 5003 |

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S
EXAMINER

STINSON, FRANKIE L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| | 1746 |

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/978,426 | ANDERSON ET AL. |
| | Examiner | Art Unit |
| | FRANKIE L. STINSON | 1746 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) Claim(s) 1-8 is/are allowed.
- 6) Claim(s) 12-15 and 17-212 is/are rejected.
- 7) Claim(s) 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I: Claims 1-8 and 12-21, drawn to an apparatus comprising a feeding means; a desolventizer; a solvent stripper; a recirculation means and a sealing means, classified in Class 134, subclass 132.

Group II: Claims 9-11, drawn to a method for removing a solvent, classified in Class 134, subclass 10.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as without a feeding device or have a vacuum means or the apparatus as claimed can be used to practice another and materially different process such as separating solid from liquid.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Mr. Lawrence M. Nawrocki on May 2, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-8 and 12-21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Joint Inventors

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (703) 308-3319. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gulakowski Randy, can be reached on (703)-308-4333. The fax phone number for this Group is (703)-305-7719.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

7. Claims 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 12, line 1, the phrase "the stripping" is without proper antecedent basis.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 12, 13, 17, 18, 20 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fochtman et al.

Note for example, the solvent stripper comprising a particulate treatment housing (5), the particulate inlet (1), an inert gas inlet (33), a recirculation inlet (9), a particulate outlet (as at 15, 13, 8), recirculation means (16-26) and conveying means (1).

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fochtman et al.

Claim 14 defines over the Fochtman only in the recitation of the chain driven conveyor. Nonetheless, to employ one conveyor over another is deemed to be an obvious matter of design.

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12. Claim ¹⁵ 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fochtman et al. in view of Gileta.

¹⁵ Claim 14 defines over Fochtman only in the recitation of the baffle structure. Gileta discloses the baffle (24, 34). It therefore would have been obvious to one having ordinary skill in the art to modify the device of Fochtman, to include baffle as taught by Gileta, for the purpose of preventing the escape of process vapors from entering the work environment.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fochtman in view of Ramsey.

Claim 19 defines over Fochtman only in the recitation of the housing being sloped. Ramsey discloses the sloped housing (12). It therefore would have been obvious to one having ordinary skill in the art to modify the device of Fochtman; to have the housing sloped as taught by Ramsey, for the purpose of aiding the advancement of the particulate material through the housing.

14. Claim 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

15. Claims 1-8 are allowed.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Rickard, Macrchesi et al., Areaux et al., Grant, Holcombe et al., Erisman et al., Griffiths, Savage, Shenoi and Crosby et al., note the contamination removal means.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (703) 308-0661. The examiner can normally be reached during the first week of the pay-period M-F from 5:30 a.m. to 3:00 p.m. and during the second week of the pay-period from Tu-Th second from 5:30 a.m. to 3:00 p.m. and on Fri. from 5:30 a.m. to 2:00 p.m. Alternating Mondays off.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (NON-FINAL REJECTION STATUS) and (703) 872-9311 (AFTER-FINAL REJECTION STATUS).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact Office Manager Ms. Sandra Sewell (703) 308-0661.

fls


FRANKIE L. STINSON
Primary Examiner
Art Unit 1746